

City Council Introduction: **Monday**, November 8, 2004
Public Hearing: **Monday**, November 15, 2004, at **1:30 p.m.**

Bill No. 04R-299

FACTSHEET

TITLE: SPECIAL PERMIT NO. 1813A, an amendment to The Preserve on Antelope Creek Community Unit Plan, requested by Nebraska Nurseries, Inc., to waive the rear setback requirements for Lots 20-42, Block 1, adjacent to Antelope Creek, on property generally located at South 80th Street and Pioneers Boulevard.

STAFF RECOMMENDATION: Conditional Approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: Consent Agenda, 10/27/04
Administrative Action: 10/27/04

RECOMMENDATION: Conditional Approval (5-0: Carlson, Taylor, Larson, Carroll and Bills-Strand voting 'yes'; Pearson declaring a conflict of interest; Marvin, Sunderman and Krieser absent).

FINDINGS OF FACT:

1. The staff recommendation of conditional approval of the waiver of the rear setback for 22 lots adjacent to Antelope Creek, provided there is no encroachment into the 100-year floodplain for Antelope Creek, is based upon the "Analysis" as set forth on p.3-4, concluding that the sensitive area along Antelope Creek will continue to be protected as development within the floodway and floodplain is prohibited. Due to the separation and screening between Lots 20 through 42 and those in the residential development to the south, the impact of this waiver is minimal.
2. On October 27, 2004, this application appeared on the Consent Agenda of the Planning Commission and was opened for public hearing. No one came forward to speak.
4. On October 27, 2004, the Planning Commission agreed with the staff recommendation and voted 5-0 to recommend conditional approval, as set forth in the staff report dated October 14, 2004.
5. The Site Specific conditions of approval required to be completed prior to scheduling this application on the City Council agenda have been satisfied.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: November 1, 2004

REVIEWED BY: _____

DATE: November 1, 2004

REFERENCE NUMBER: FS\CC\2004\SP.1813A

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for the October 27, 2004, PLANNING COMMISSION MEETING

P.A.S.: Special Permit #1813A - The Preserve on Antelope Creek

PROPOSAL: To amend the CUP for The Preserve on Antelope Creek to waive the rear setback for Lots 20 - 42, Block 1, adjacent to Antelope Creek.

LOCATION: South 80th Street and Pioneers Blvd.

LAND AREA: Approximately 57.98 acres (entire CUP).

CONCLUSION: The sensitive area along Antelope Creek will continue to be protected as development within the floodway and floodplain is prohibited. Due to the separation and screening between Lots 20 - 42 and those in the residential development to the south, the impact of this waiver is minimal.

RECOMMENDATION:	Conditional Approval
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GENERAL INFORMATION:

LEGAL DESCRIPTION: See attached legal description.

EXISTING ZONING: R-3 Residential.

EXISTING LAND USE: Single-family and townhouse residential, and assisted/independent living.

SURROUNDING LAND USE AND ZONING:

North:	Residential	R-1, O-3, B-2
South:	Residential	R-3
East:	Residential	R-3
West:	Residential, Office	R-3, O-3

HISTORY:

July 5, 2001 - Preliminary Plat #99027 for The Preserve on Antelope Creek for 140 lots, and Special Permit #1813 for 150 dwelling units and for developing retirement housing for 180 dwelling units (both assisted and independent), and Use Permit #125 for 15,000 square feet of office floor area in O-3 district, and for 66,900 square feet of commercial floor area and 35 dwelling units in B-2 were approved.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F57 - The Greenprint Challenge Implementation Principles

Seek early identification of areas to be preserved While planning for future growth is integral to this Comprehensive Plan, it is equally important that environmental resource features be accorded similar attention. The community should invest planning resources into the early identification of those areas most valued as part of the Greenprint Challenge. This principle supports the notion of “getting ahead of the game” by knowing what resources are most valued, where they are located, and what actions should be made within the broader planning process to secure their future for the community.

Obtain reasonably constrained regulations – Maintaining a balance between the natural and human built environment is always a delicate one. Planning policy and regulatory approaches employed in achieving the Plan’s Vision and Greenprint Challenge should strive to be effective, tempered, pragmatic, circumscribed, and respectful of private property rights.

Provide biological interconnection – Plants and animals do not exist in isolation. They interact with each other and reside within an integrated habitat. Implementation of the Comprehensive Plan needs to respect biological connections that exist today and provide responsive means for maintaining those associations.

Promote diversity of vegetation – Plants are a basic environmental building block. They provide habitat and food for animals, as well as aid in sustaining other vegetation that holds the soil and protects the water quality. Maintaining a diverse range of plants ultimately supports a healthier environment for all plants and animals.

Make “green space” an integral part of all environments – “Green space” can come in a wide variety of forms. The policies of the Comprehensive Plan should strive to incorporate such uses in the full range of urban and rural landscapes.

Prevent the creation of a “wall-to-wall city” through the use of green space partitions – As cities and villages expand, establishing corridors and districts of green should be part of the growth process. This often requires the advance delineation of these areas and the means for securing their on going maintenance.

Establish effective incentives for natural resource feature preservation – Securing the long term permanence of green space is a basic dilemma in natural resources planning. The use of “green space development incentives” (e.g., setting aside non-buildable areas, creating green space preserves, density bonuses) should be a primary consideration in implementing this Plan.

ANALYSIS:

1. This request is to waive the rear setback for 22 lots adjacent to Antelope Creek along the south boundary of The Preserve on Antelope Creek CUP. It is zoned R-3, where the rear setback is the smaller of 30' or 20% of the lot depth.
2. During the review of the preliminary plat, the applicant was required to delineate the floodway and floodplain for Antelope Creek through this site. While portions of the rear of some lots were within the floodplain, no development was allowed within either the delineated floodway or floodplain. This request waives the rear setback for Lots 20 - 42, but prohibits any encroachment into the floodplain as shown on the plan.

3. Residential lots backup to Antelope Creek south of this development. On average, those lots are more than 250' away, where the nearest lot is approximately 180' away, and the farthest lot is in excess of 380' away. The rear setback primarily exists to maintain separation between uses to provide for adequate amounts of light and open space. Even with a 0' setback in this area, adequate separation between uses exists.
4. There is significant separation and screening between subdivisions provided by both the creek and the existing trees which are to remain on the site. So long as the sensitive area along the creek is protected as it is with this amendment, the impact of waiving the rear setback for the lots along the creek is minimal.

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show:

1.1.1 Label the cul-de-sac at the south end of Preserve Lane as Preserve Court.

2. This approval waives the rear setback for Lots 20 - 42, Block 1, provided there is no encroachment into the 100-year floodplain for Antelope Creek as shown on the plan.

General:

3. Before receiving building permits:

3.1 The permittee shall have submitted five copies of a revised **final** plan, and the plans are acceptable.

3.2 The construction plans shall comply with the approved plans.

Standard:

4. The following conditions are applicable to all requests:

4.1 Before occupying the dwelling units all development and construction shall have been completed in compliance with the approved plans.

4.2 All privately-owned improvements shall be permanently maintained by the owner or an appropriately established homeowners association approved by the City Attorney.

- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
 - 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
 - 4.5 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.
5. The site plan as approved with this resolution voids and supersedes all previously approved site plans, however all resolutions approving previous permits remain in force unless specifically amended by this resolution.

Prepared by:

Brian Will
441-6362, bwill@lincoln.ne.gov
Planner

October 14, 2004

APPLICANT/

OWNER: Nebraska Nurseries, Inc.
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Omaha, NE 68154
(402) 431-0500

CONTACT: Kent B. Braasch
11606 Nicholas Street, Suite 100
Omaha, NE 68154
(402) 431-0500

**SPECIAL PERMIT NO. 1813A,
An Amendment to
THE PRESERVE CREEK ON ANTELOPE CREEK
COMMUNITY UNIT PLAN**

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

October 27, 2004

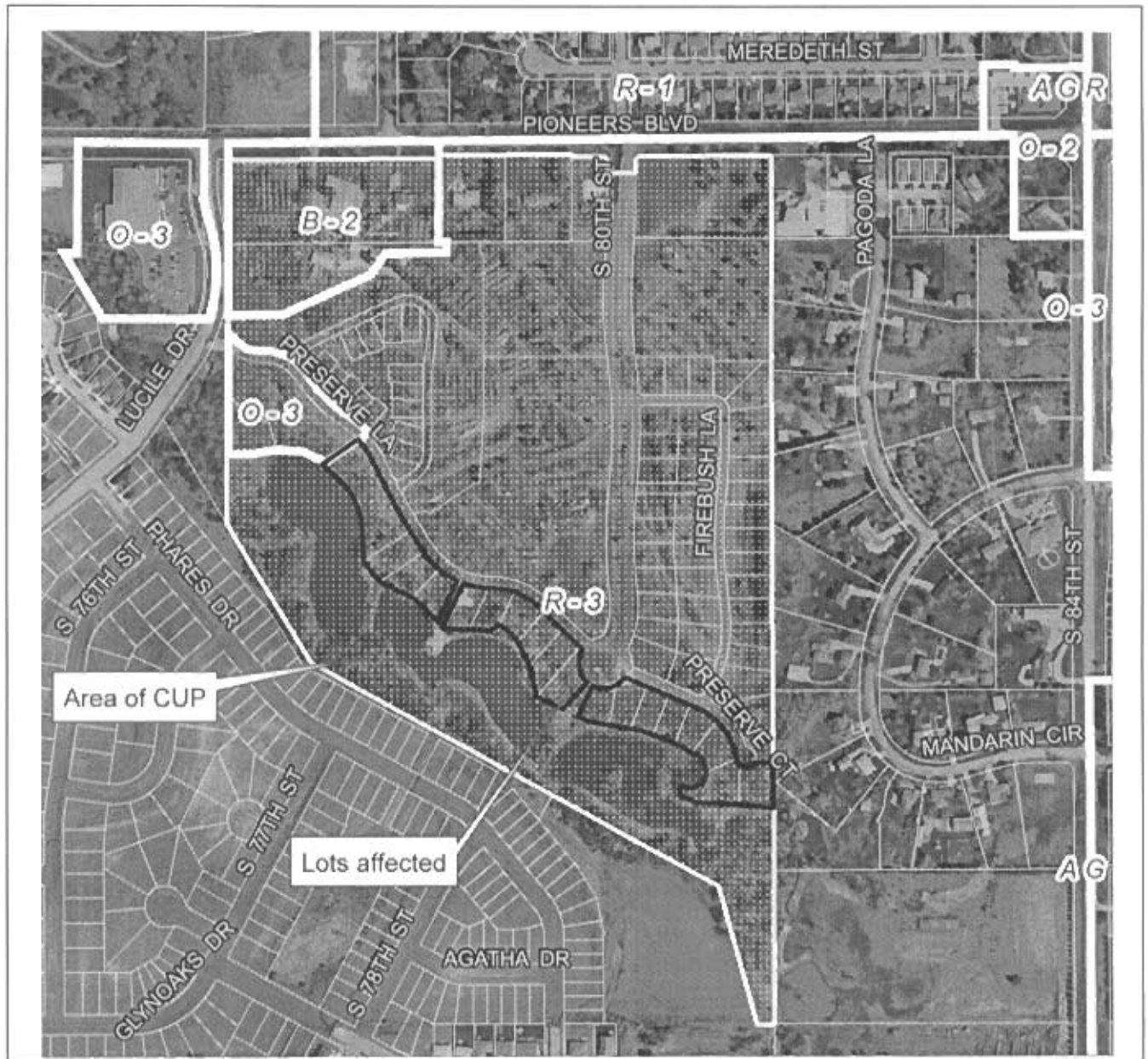
Members present: Carlson, Carroll, Larson, Bills-Strand and Taylor; Pearson declaring a conflict of interest; Krieser, Marvin and Sunderman absent.

The Consent Agenda consisted of the following items: **CHANGE OF ZONE NO. 3425; USE PERMIT NO. 124A; USE PERMIT NO. 150B; SPECIAL PERMIT NO. 1813A, an amendment to THE PRESERVE ON ANTELOPE CREEK COMMUNITY UNIT PLAN; COUNTY SPECIAL PERMIT NO. 04052; SPECIAL PERMIT NO. 04053; COMPREHENSIVE PLAN CONFORMANCE NO. 04009; WAIVER NO. 04014; and MISCELLANEOUS NO. 04004.**

Item No. 1.3, Use Permit No. 150B, was removed from the Consent Agenda and scheduled for separate public hearing.

Taylor moved to approve the remaining Consent Agenda, seconded by Larson and carried 5-0: Carlson, Carroll, Larson, Bills-Strand and Taylor voting 'yes'; Pearson declaring a conflict of interest; Krieser, Marvin and Sunderman absent.

Note: This is final action on Special Permit No. 04053 and Waiver No. 04014, unless appealed to the City Council by filing a notice of appeal with the City Clerk within 14 days of the action by the Planning Commission.



2002 aerial

Special Permit #1813A S. 80th & Pioneers Blvd

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-1	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 10 T09N R7E



Zoning Jurisdiction Lines
City Limit Jurisdiction



TYPICAL SETBACKS

R3

FRONTYARD - LOTS 19-24 BLOCK 1 - 20'
ALL OTHER LOTS - 25'

INTERIOR SIDEYARD ON SIDE NEXT TO - BLOCK 1, LOTS 18,19,27,28,33,34,36 &
COMMON AREA OR EASEMENT BLOCK 2, LOTS 7,8,13,14-5'

INTERIOR SIDEYARD - ALL OTHER LOTS-7.5', EXCEPT LOTS 16-39, BLOCK 4, LOTS 1-14
BLOCK 5, AND LOTS 38-42, BLOCK 1, THE SETBACK
SETBACK IS 0'

REARYARD - BLOCK 2 - 30' OR 20% OF DEPTH
BLOCK 1 - LOTS 2-19 - 25'

LOTS 20-42 - 0' PROVIDED THERE
IS NO ENCROACHMENT INTO THE
100 YEAR FLOODPLAIN FOR ANTELOPE CREEK
AS SHOWN ON THE PLAN

BLOCKS 3 & 4 - 25', EXCEPT LOTS 16-39, BLOCK 4 - 0'
BLOCK 5 - LOTS 1-14 - 0'

OUTLOT "A"

1"O.T.P.

28°31'34" A
35' R

009

TY PANEL

LIC USE.

.OT

E AND F
DTS 17

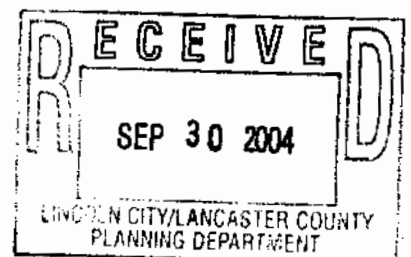
FACED.

RIVE.

Purpose Statement

The purpose of this request is to reduce the rear yard setback to 0' for Lots 20-42, Block 1, provided there is no encroachment into the 100-year floodplain for Antelope Creek as shown on the plan.

010



LEGAL DESCRIPTION;

A TRACT OF LAND CONSISTING OF PORTIONS OF LOT 51 AND PORTION OF LOT 57 IRREGULAR TRACTS, AND THE PRESERVE ON ANTELOPE CREEK, LOTS 1 AND 2, AND THE PRESERVE ON ANTELOPE CREEK 1ST ADDITION, LOTS 1 THROUGH 36, BLOCK 1 LOTS 1 THROUGH 20, BLOCK 2, AND OUT LOTS "A" THROUGH "F", AND THE PRESERVE ON ANTELOPE CREEK 2ND ADDITION, LOTS 1 THROUGH 5 AND OUT LOTS "A" THROUGH "E", AND THE PRESERVE ON ANTELOPE CREEK 3RD ADDITION, LOT 1 AND OUT LOT "A", AND THE PRESERVE ON ANTELOPE CREEK 4TH ADDITION, LOTS 1 THROUGH 20 AND OUT LOTS "A" AND "B", AND THE PRESERVE ON ANTELOPE CREEK 5TH ADDITION, LOTS 1 AND 2, AND THE PRESERVE ON ANTELOPE CREEK 6TH ADDITION, LOTS 1 THROUGH 9 AND OUT LOTS "A" AND "B", ALL AS SURVEYED, PLATTED AND RECORDED IN LANCASTER COUNTY NEBRASKA AND ALL LOCATED IN THE NORTHEAST QUARTER OF SECTION 10, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 54 OF SAID QUARTER SECTION, THENCE N89°21'34"E ALONG THE SOUTH LINE OF SAID LOT 54, A DISTANCE OF 200.19 FEET TO THE EAST LINE OF SAID LOT 54; THENCE N00°11'13"W ON SAID LINE, A DISTANCE OF 259.93 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF PIONEER BOULEVARD; THENCE N89°20'29"E ON SAID LINE, A DISTANCE OF 600.59 FEET TO THE EAST LINE OF LOT 57 OF THE AFORESAID NORTHEAST QUARTER OF SECTION 10; THENCE S00°11'52"E ON SAID LINE, A DISTANCE OF 2133.34 FEET; THENCE S00°13'54"E ON SAID LINE, A DISTANCE OF 456.67 FEET; THENCE ON THE SOUTHERLY AND WESTERLY LINES OF SAID LOT 57 FOR THE NEXT FOUR COURSES; N89°58'22"W, A DISTANCE OF 52.68 FEET; N15°39'36"W, A DISTANCE OF 425.55 FEET; N61°34'23"W, A DISTANCE OF 1398.97 FEET; N31°42'49"W, A DISTANCE OF 481.67 FEET TO THE WEST LINE OF SAID LOT 57, SAID LINE ALSO BEING THE EAST LINE OF OUTLOT "A", PIONEER SUBDIVISION, A SUBDIVISION AS PLATTED AND RECORDED IN LANCASTER COUNTY, NEBRASKA; THENCE N00°16'08"E ON SAID LINE, A DISTANCE OF 203.46 FEET; THENCE SOUTH 89°43'52" EAST, A DISTANCE OF 73.06 FEET; THENCE NORTH 79°07'47" EAST, A DISTANCE OF 70.38 FEET; THENCE SOUTH 86°37'54" EAST, A DISTANCE OF 84.78 FEET; THENCE SOUTH 66°20'00" EAST, A DISTANCE OF 78.47 FEET; THENCE NORTH 55°16'54" EAST, A DISTANCE OF 154.09 FEET TO A POINT ON A CURVE; THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 292.55 FEET AND A CENTRAL ANGLE OF 15°30'27", AN ARC DISTANCE OF 79.18 FEET (CHORD = 78.94', CHORD BEARING = N 49°52'30" W) TO A POINT OF REVERSE CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 420.40 FEET AND A CENTRAL ANGLE OF 19°46'13", AN ARC DISTANCE OF 145.06 FEET (CHORD = 144.34', CHORD BEARING = N 47°44'38" W) TO A POINT OF TANGENCY; THENCE NORTH 37°51'31" WEST, A DISTANCE OF 48.41 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 144.27 FEET AND A CENTRAL ANGLE OF 52°16'35", AN ARC DISTANCE OF 131.63 FEET (CHORD = 127.11', CHORD BEARING = N 63°59'49" W) TO A POINT OF TANGENCY; THENCE SOUTH 89°51'54" WEST, A DISTANCE OF 16.99 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 95.82 FEET AND A CENTRAL ANGLE OF 46°31'36", AN ARC DISTANCE OF 77.81 FEET (CHORD = 75.69', CHORD BEARING = N 66°52'18" W) TO A POINT OF TANGENCY; THENCE NORTH 43°36'30" WEST, A DISTANCE OF 37.54 FEET TO THE AFORESAID WEST LINE OF LOT 57; THENCE N00°16'08"E ON SAID LINE, A DISTANCE OF 59.13 FEET; THENCE S89°46'35"E, A DISTANCE OF 166.69 FEET; THENCE N66°33'19"E, A DISTANCE OF 289.31 FEET; THENCE N37°33'31"E, A DISTANCE OF 76.97 FEET; THENCE N89°48'08"E, A DISTANCE OF 183.77 FEET; THENCE N00°49'59"W, A DISTANCE OF 31.82 FEET TO A POINT ON THE SOUTH LINE OF LOT 55 OF SAID QUARTER SECTION; THENCE N89°21'34"E ALONG SAID SOUTH LINE OF LOT 55, A DISTANCE OF 176.68 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED TRACT OF LAND CONTAINS 2,525,682 SQUARE FEET OR 57.98, ACRES MORE OR LESS.